THE HONOURABLE SHRI JUSTICE R.SUBHASH REDDY

WRIT PETITION No. 23823 OF 2007

Dated 23rd November, 2007

Between:

Satish Dholai

…Petitioner

And

The Registrar, Dr.N.T.R. University of Health Sciences, Vijayawada, Krishna District and others.

…Respondents.

ORAL ORDER:

Heard learned counsel for the petitioner as well as the learned Government Pleader appearing for the respondents.

The petitioner is a student studying B.D.S. course in Geetam Dental College, Visakhapatnam. The petitioner claimed admission into the said course during the year 2007-08 in the seat reserved for Scheduled Tribe as he belongs to Bentho Oriya Community, which is notified as Scheduled Tribe.

The petitioner applied for Caste Certificate. When no action was taken on the application of the petitioner and the petitioner was directed to produce the S.T.Certificate on his being qualified in EAMCET-2007, the petitioner filed W.P.No. 117503 of 2007 and this Court in W.P.M.P.Nos.22404 and 22405 of 2007 directed the respondents not cancel the seat granted to the petitioner under provisional admission and to permit the petitioner to attend the classes subject to the condition that the petitioner files an undertaking before the first respondent therein that the admission given to him is subject to the outcome of the enquiry by the competent authority enquiring about the caste status of the petitioner. It is stated that subsequently, the petitioner was allowed to pursue the course, but, however, the Sub-Collector, Tekkali has passed the impugned proceedings rejecting issuance of Scheduled Tribe's Certificate on the ground that the petitioner belongs to "Odiya caste" but not Bentho Oriya (ST) and stating that his provisional admission into Dr.N.T.R.University of Health Sciences of Vijayawada may be cancelled. It is stated that as against the orders of the Sub-Collector, Tekkali, the petitioner has preferred appeal before the appellate authority i.e. the District Collector on 15.10.2007 and the same is pending consideration. On the ground

that the said authority has not passed any interim orders and steps are being taken to cancel the admission of the petitioner, the petitioner approached this court with this writ petition.

It is submitted by the learned counsel for the petitioner that though he belongs to Bentho Oriya, which is notified as a Scheduled Tribe, the Sub-Collector, Tekkali has passed impugned orders without conducting proper enquiry and without giving any opportunity. It is submitted that cancellation of his admission into B.D.S. at this stage, when the appeal filed by the petitioner is pending consideration, will result in great hardship and irreparable loss to the petitioner.

On the other hand, it is submitted by the learned Government Pleader appearing for the respondents that as much as the admission of the petitioner was subject to undertaking given by him in view of the orders passed by this court, the petitioner cannot claim continuance in the course in view of rejection of the claim of the petitioner that he belongs to Bentho Oriya community.

Though the petitioner was granted provisional admission, even before the interim orders are passed by this court, when steps were being taken to cancel the admission, the petitioner approached this court in Writ Petition No. 17503 of 2007. It is not in dispute that the petitioner is continuing in the course and pursuing B.D.S. A perusal of the endorsement of the Sub-Collector does not indicate giving of any notice to the petitioner before conducting the enquiry with regard to the claim of the petitioner that he belongs to Bentho Oriya community. It is stated that enquiry was conducted behind the back of the petitioner and without assigning any valid reasons the claim of the petitioner is rejected.

Be that as it may, it is also not in dispute that as against the orders of the Sub-Collector, Tekkali, the petitioner preferred statutory appeal as provided under Section 7 of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes)

Regulation of Issue of Community Certificates Act, 1993 before the District Collector on 15.10.2007 and the same is pending consideration. In view of the filing of the appeal by the petitioner and its pendency before the District Collector, it is not desirable to go into the merits of the claim. But, however, having regard to the fact that the petitioner is already pursuing the course and the substantive remedy of appeal preferred by the petitioner is pending consideration before the District Collector, I direct the District Collector to dispose of the appeal preferred by the petitioner against the orders dated 29.9.2007 within a period of two months from the date of the receipt of a copy of this order by giving due opportunity to the petitioner and examining the grounds raised by the petitioner. Having regard to the facts and circumstances, I further direct that no steps shall be taken for cancellation of the admission of the petitioner pursuant to the orders of Sub-Collector dated 29.9.2007 passed in Rc.No.1228/2007 till the disposal of the appeal preferred by the petitioner by the District Collector. However, it is made clear that the petitioner shall not claim any equities on the ground of continuance in the course in the event of the appeal ending against the petitioner.

Subject to above directions, the writ petition is disposed of. No costs.

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23-11-2007 **R.SUBHASH REDDY, J.**

VR

Note:

Issue cc by tomorrow.

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